

## **REMARKS**

**Claims 9-19 were pending in this application**

**Claims 9 – 19 were rejected**

**Claims 10 and 14-19 are cancelled**

**Claims 9, 12 and 13 are amended**

### **I. 35 USC 112 Rejections**

The Examiner has rejected Claims 14-19 under 35 USC 112. The rejection has been rendered moot by the cancellation of the effected claims

### **II. 35 USC 102 Rejection**

**Claims 9 and 11 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 4,793,559 to Marlek.**

**Claim 9** is an independent claim that sets forth a method of maintaining a traffic barrier. In accordance with the claimed method, a wheeled frame is provided that defines an open central channel. The wheeled frame has support wheels on either side of said open central channel so that it can straddle any traffic barrier passing through the central channel.

Spray heads are provided on the wheeled frame. The spray heads are oriented to spray material inwardly toward the open central channel and onto any traffic barrier that may be present in the open central channel.

A section of traffic barrier is straddled by the wheeled frame by placing the wheeled frame over the traffic barrier. Once straddled, the traffic barrier is positioned in the open central channel. The wheeled frame rests on the support wheels on opposite sides of traffic barriers. The wheeled frame is propelled along the traffic barrier so that the traffic barrier passes under the spray heads.

The methodology being claimed is not disclosed by the prior art cited by the examiner.

**The Mariek patent** shows a rolling applicator (10) that rolls along one side of a traffic

barrier. Although the rolling applicator does have spray arms that extend over the traffic barrier, it is clear that the rolling applicator rolls along only one side of the traffic applicator.

Accordingly, the Mariek patent fails to disclose the claimed method step of

***“providing a wheeled frame that defines an open central channel, wherein said wheeled frame has support wheels on either side of said open central channel;”***

The Mariek patent also fails to disclose the claimed method step of:

***“straddling the traffic barrier with said wheeled frame by placing said wheeled frame over the traffic barrier, wherein the traffic barrier is positioned in said open central channel and said wheeled frame rest on said support wheels on opposite sides of traffic barriers”***

Since these method steps are present in Claim 9 and are not disclosed or suggested by the cited prior art, the Examiner is respectfully requested to withdraw the 35 USC 102 rejection as applied to Claim 9 and its dependent claims.

**Claims 9, 11, 12 and 13 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,865,943 to Marty**

As has previously been explained, Claim 9 is an independent claim that sets forth a method of maintaining a traffic barrier. In accordance with the claimed method, a wheeled frame is provided that defines an open central channel. The wheeled frame has support wheels on either side of the open central channel so that it can straddle a traffic barrier. A section of traffic barrier is straddled by the wheeled frame by placing the wheeled frame over the traffic barrier. Once straddled, the traffic barrier is positioned in the open central channel. The wheeled frame rests on the support wheels on opposite sides of a traffic barrier.

The methodology being claimed is not disclosed by the prior art cited by the Examiner.

**The Marty patent** discloses an applicator for applying reflective adhesive tape to a traffic barrier. It is clear that the tape applicator rolls along only one side of the traffic applicator.

Accordingly, the Marty patent fails to disclose the claimed method step of

***“providing a wheeled frame that defines an open central channel, wherein said wheeled frame has support wheels on either side of said open central channel;”***

The Marty patent also fails to disclose the claimed method step of:

***“straddling the traffic barrier with said wheeled frame by placing said wheeled frame over the traffic barrier, wherein the traffic barrier is positioned in said open central channel and said wheeled frame rest on said support wheels on opposite sides of traffic barriers”***

Since these method steps are present in Claim 9 and are not disclosed or suggested by the cited prior art, the Examiner is respectfully requested to withdraw the 35 USC 102 rejection as applied to Claim 9 and its dependent claims.

### **III. 35 USC 103(a) Rejections**

**The Examiner has rejected Claim 12 under 35 USC 103(a) as being unpatentable in view of U.S. Patent No. 2,995,307**

Claim 12 depends from independent Claim 9. Claim 9 is an independent claim that sets forth a method of maintaining a traffic barrier. In accordance with the claimed method, a wheeled frame is provided that defines an open central channel. The wheeled frame has support wheels on either side of the open central channel so that it can straddle a traffic barrier. A section of traffic barrier is straddled by the wheeled frame by placing the wheeled frame over the traffic barrier. Once straddled, the traffic barrier is positioned in the open central channel. The wheeled frame rests on the support wheels on opposite sides of traffic barrier.

**The McMahon patent** discloses a spray arm that is attached to the side of a tanker truck.

The McMahon patent makes no disclosure of the claimed method step of

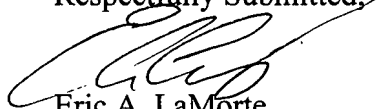
***“straddling the traffic barrier with said wheeled frame by placing said wheeled frame over the traffic barrier, wherein the traffic barrier is positioned in said open central channel and said wheeled frame rest on said support wheels on opposite sides of traffic barriers”***

Accordingly, the McMahon patent fails to disclose or suggest the method of Claim 9. Claim 12 is therefore believed to be distinguishable over the cited prior art because it depends from and further defines an allowable base claim.

#### **IV. SUMMARY**

Having traversed the stated causes of rejection, the Applicant believes that the application stands in condition for allowance. If the Examiner disagrees, the Examiner is invited to call the applicant's attorney at (215) 321-6772 in order that any outstanding issues may be resolved without the necessity of issuing a further Office Action.

Respectfully Submitted,

  
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